

**REPORT - PLANNING COMMISSION MEETING
May 26, 2005**

Project Name and Number: Union Street Townhomes (PLN2005-00027)

Applicant: Mohammed Hyder Khan, H&K Development Company

Proposal: To consider a Vesting Tentative Tract Map and Private Street to accommodate a 12 unit townhouse development on 0.54 acres.

Recommended Action: Approve, based on findings and subject to conditions

Location: 3536 Union Street in the Irvington Planning Area

Assessor Parcel Number(s): 525-0641-002-01, 525-0641-002-07, 525-0641-002-09

Area: 0.54 acres

Owner: Mohammed Hyder Khan, H&K Development Company

Agent of Applicant: Mohammed Hyder Khan, H&K Development Company

Consultant(s): Wesley Sakamoto, Landscape Architect, Peter Jacobsohn, AIA,
Mohamed Genidy, G&M Engineers

Environmental Review: A Mitigated Negative Declaration has been prepared and previously adopted for this project.

Existing General Plan: Medium Density Residential, 18-23 units per acre

Existing Zoning: Planned District, P-2005-27

Existing Land Use: Single-Family Residential and two vacant lots

Public Hearing Notice: A total of 145 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Union Street, High Street, Main Street, Lincoln Street, High Common, Inglewood Common. The notices to owners and occupants were mailed on May 13, 2005. A Public Hearing Notice was delivered to The Argus on May 9, 2005 to be published by May 12, 2005.

Executive Summary: The applicant is requesting approval of Vesting Tentative Tract Map 8644 and a Private Street for 12 attached townhome units on 0.54 acres.

Background and Previous Actions: A General Plan Amendment changing the land use designation of the project site from Medium Density Residential, 15-18 units per acre to the current Medium Density Residential, 18-23 units per acre designation was approved by City Council on April 12, 2005. A Preliminary and Precise Planned District rezoning was also approved by City Council on April 12, 2005.

Project Description: The existing site includes three parcels. Two of the parcels are vacant and one has a single-story, single-family home in fair condition. The applicant is proposing to subdivide site to accommodate twelve new townhouse units (removing the existing house), a Private Vehicle Access Way (PVAW), common open space area and associated landscape improvements. Ten of the twelve units are three stories, approximately 32 feet in height, and include "tuck-under" garages on the ground floor with two floors of living space above. The remaining two units, located in the southeast portion of the site, are two stories with garages and living space on the first floor and living space on the second floor. The new design is pedestrian-oriented and addresses both the Union and High Street frontages. Six units will front along High

Street, with the corner unit designed to address both frontages, and one unit will front on Union Street. The remaining five units located internal to the site have pedestrian access via walkways from Union and High Streets. A tandem garage is proposed for one of the units. All twelve units contain three bedrooms.

PROJECT ANALYSIS:

General Plan Conformance: The existing General Plan land use designation for the project site is Medium Density Residential, 18-23 units per acre. The proposed project is consistent with the proposed General Plan land use designation for the project site because the project meets the mid-point density range of the proposed increase of 18-23 units per acre. The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

- *Land Use Policy 1.1 – Residential uses are the primary uses allowed in residentially designated areas.*

The project conforms to this policy because it is a residential use.

- *Land Use Policy 1.9 – To achieve a variety of housing types, the City has designated locations where moderate and higher density development is appropriate.*

The project conforms to this policy because this is an area designated for moderate density housing. The applicant is requesting a General Plan Amendment to accommodate more units as previously suggested by the Commission. Further, the proximity of the Irvington BART Station site encourages the development of mid to high density housing in the general vicinity.

- *Land Use Policy 1.23 – A variety of unit types and sizes shall be encouraged within each multi-family project.*

The project conforms to this policy because three unit types of various sizes are provided.

- *Land Use Policy 1.24 – Multi-family housing shall be designed to accommodate the needs of families and children.*

The project conforms to this policy because the applicant designed the units with three bedrooms each to accommodate families.

- *Housing Goal 2 – High quality and well-designed new housing of all types throughout the City.*

The project conforms to this goal because it provides new housing units that are constructed with quality materials and designed in a manner that relates to the street while providing interest and variety in the design.

- *Housing Goal 3 – Housing affordable and appropriate for a variety of Fremont households at all economic levels throughout the City.*

The project conforms to this goal because the units are designed with three bedrooms to accommodate families, and will provide one Inclusionary unit.

Irvington Concept Plan Conformance: The project site is located within the boundaries of the Irvington Concept Plan, however, the Concept Plan does not specifically address the project site. The Plan does recognize Main Street which is located one block to the south of the project site. In particular, the Plan recommends creating a mixed-use corridor along Main Street while improving the overall landscape and streetscape conditions in the area as a gateway to the future BART Station. Overall, the project is in conformance with the Irvington Concept Plan in that the streetscape along each project frontage will be improved with new curb and gutter, street trees and new sidewalks.

Redevelopment Plan Conformance: The project is also located within the boundaries of the Irvington Redevelopment Area. The project is consistent with the goals of the Irvington Redevelopment Plan because the project will result in the

elimination of adverse physical conditions. The project also meets the following objectives aimed to achieve the goals of the Redevelopment Plan:

- *The improvement of safe and convenient pedestrian and bicycle circulation.*
- *The gradual transition and intensification of uses in proximity to the Irvington BART Station in a manner compatible with existing development.*
- *The elimination of substandard size lots and lots of irregular shape.*
- *The creation of sites of adequate shape and size for redevelopment in accordance with a unified development plan by assembling smaller parcels of inadequate size and shape.*
- *The encouragement of residential rehabilitation throughout the project area compatible residential development in appropriate locations.*

Zoning Regulations: A Preliminary and Precise Planned District, P-2005-27, was approved for this project by the City Council on April 12, 2005. The R-3, Multi-Family Residence District, is the zoning district most similar to the project. The project as designed meets the majority of requirements of the R-3 District. The project meets the bulk massing and site design standards of the R-3 District, including setbacks, height, lot coverage and open space areas. The project also meets the intent of the development standards and guidelines which includes articulated facades, pedestrian orientation, circulation and landscaping.

Inclusionary Zoning: The project meets the City's Inclusionary zoning requirements through the inclusion of 1 "for-sale" Below Market Rate (BMR) unit. The unit will consist of one, three bedroom townhouse, and will be located within the project as Unit #10 (Lot#10). (Condition #21)

ENGINEERING ANALYSIS:

Street Improvements: Right-of-way dedication and street improvements are required along both the High Street and Union Street project frontage. Both streets are residential collector streets with ultimate right-of-way widths of sixty feet and pavement widths of forty feet. Street improvements include, but are not limited to: removal of existing sidewalk, curb, and gutter; installation of new pavement, curb, gutter, driveway, sidewalk, landscaping, and storm drain facilities; and relocation of existing above ground and underground utilities.

The existing sidewalk on Union Street will be removed and the frontage will be improved to the City standard for residential sidewalk, which is separated from the curb and gutter with a landscaping strip and street trees. High Street includes some temporary curb and gutter, which will be removed with this project and replaced with standard sidewalk and landscaping. Transitional pavement and sidewalk is required at both ends of the frontage improvements and a new curb ramp is required at the street corner.

The requirements for right-of-way dedication and street improvements were included as conditions of approval for Planned District P-2005-027.

Grading/Topography: The project site is located on the corner of High Street and Union Street and encompasses three existing lots. These lots were created by a subdivision approved July 24, 1922 (Map of the Morton Tract, Town of Irvington). The corner lot is currently improved with a single family home, which will be demolished to accommodate the condominium buildings. Several trees are also located on site.

On-site grades vary, but the project site is predominantly flat. The project civil engineer has provided a preliminary grading, drainage, and utility plan (sheet C1) for informational purposes. The estimated total grading for the project is 400 cubic yards (300 cut + 100 fill). The grading, drainage, and utility design is subject to review and approval prior to issuance of building permits or approval of the final map.

Drainage: The project site is located in the Irvington District and storm runoff from the site will eventually discharge to Laguna Creek, also known as Alameda County Flood Control and Water Conservation District Zone 6, Line E. Laguna Creek is designated a special flood hazard area by the Federal Emergency Management Agency (FEMA). Post development runoff from the project site shall not increase the flood hazard downstream. The project may be required to mitigate the effects of increased runoff from the project site. The project shall be designed to conform to the Hydrology and Hydraulics Criteria Summary for Western Alameda County. Hydraulic calculations will be required during subdivision improvement plan check. The on-site and off-site storm drain design, including the permeable pavement system, shall be subject to review and approval of the City Engineer and Alameda County Flood Control and Water Conservation District.

Urban Runoff Clean Water Program: The Federal Clean Water Act of 1972 and Water Quality Act (1987) require localities throughout the nation to obtain a National Pollutant Discharge Elimination System permit (NPDES) in order to discharge storm water into public waterways such as creeks, rivers, channels and bays. The applicant will comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board. Prior to approval of building permits or approval of the final map, the developer must demonstrate the site design complies with the NPDES permit requirements.

Geologic Hazards: The site proposed for development is wholly located within the Alquist-Priolo Special Study Zone, as delineated on the State of California Earthquake Fault Zone Map, Niles Quadrangle R80. According to the Alquist-Priolo Earthquake Fault Zoning Act, Section 2623(a), the City shall require, prior to the approval of a project, a geologic report defining and delineating any hazard of surface fault rupture. A report was submitted, reviewed, and approved by the City. The approved report was submitted to the State Geologist, in accordance with the Alquist-Priolo Earthquake Fault Zoning Act. The approved geologic report concludes the property is appropriate for the development as proposed.

ENVIRONMENTAL ANALYSIS: An Initial Study and Mitigated Negative Declaration, was prepared and previously adopted for this project. The environmental analysis identified concerns regarding potential impacts to air quality, biological resources and stormwater quality. The Mitigated Negative Declaration includes mitigation measures, which, if implemented, would reduce the identified impacts to non-significant levels. These mitigation measures have been included as conditions of approval for this project. A finding is proposed that this project would not have a significant effect on the environment based upon the implementation of the identified mitigation measures.

Response from Agencies and Organizations: No responses from outside agencies or organizations have been received.

APPLICABLE FEES:

Development Impact Fees: This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities and traffic impact. Residential projects/units will also be subject to park facilities and park dedication in-lieu fees. These fees shall be calculated at the fee rates in effect at the time of building permit issuance. The applicant is entitled to a fee credit for the one existing unit to be demolished.

ENCLOSURES: Exhibit "E" Vesting Tentative Tract Map 8644 & Private Street Exhibit
Exhibit "F" Findings & Conditions of Approval

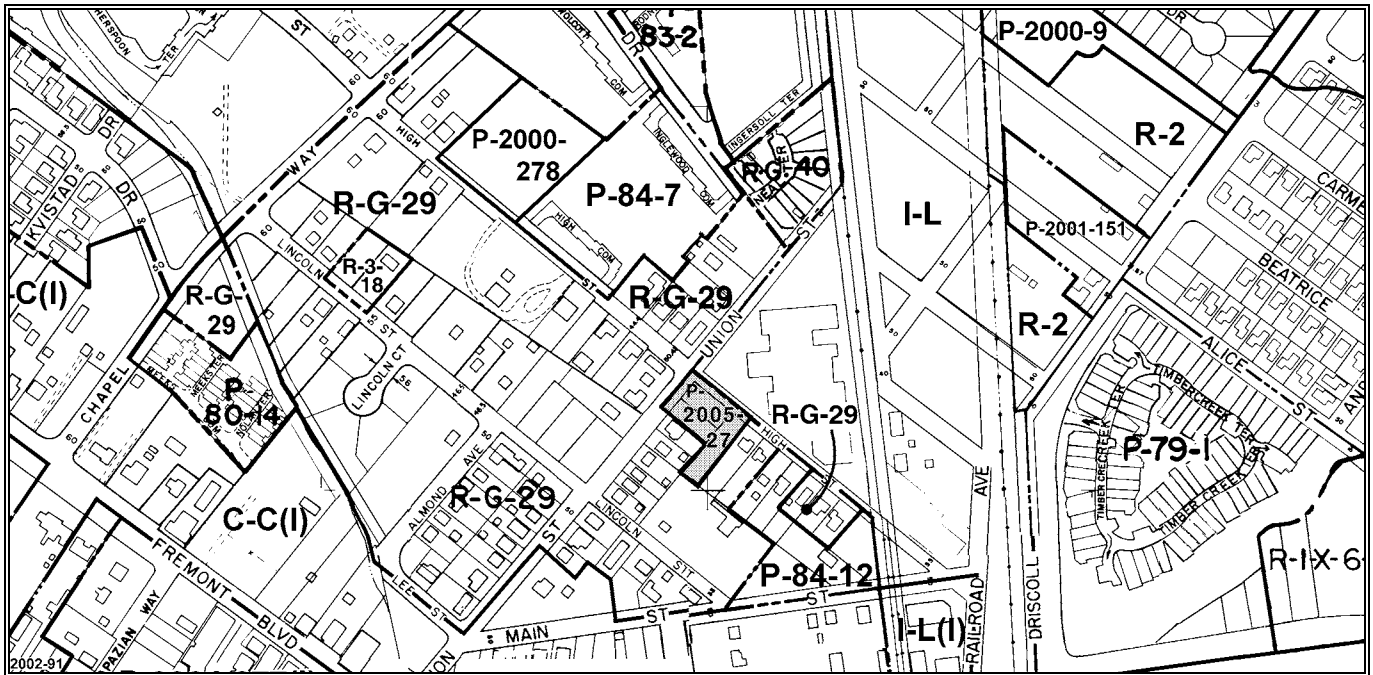
INFORMATIONAL: Preliminary Grading Plan

EXHIBITS: Exhibit "E" Vesting Tentative Tract Map 8644 & Private Street Exhibit
Exhibit "F" Findings & Conditions of Approval

Recommended Actions:

1. Hold public hearing.
2. Find the previously approved Mitigated Negative Declaration with a Certificate of Fee Exemption addresses the proposed project and no further environmental review is required.
3. Find PLN2005-00027 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use and Housing Chapters as enumerated within the staff report.
4. Find PLN2005-00027 per Exhibit "E" (Tentative Tract Map 8644 and Private Street) and; Exhibit "F" (Findings and Conditions); fulfills the applicable requirements set forth in the Fremont Municipal Code.
5. Approve PLN2005-00027 in conformance with Exhibit "E" (Tentative Tract Map 8644 and Private Street) and; Exhibit "F" (Findings and Conditions).

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan

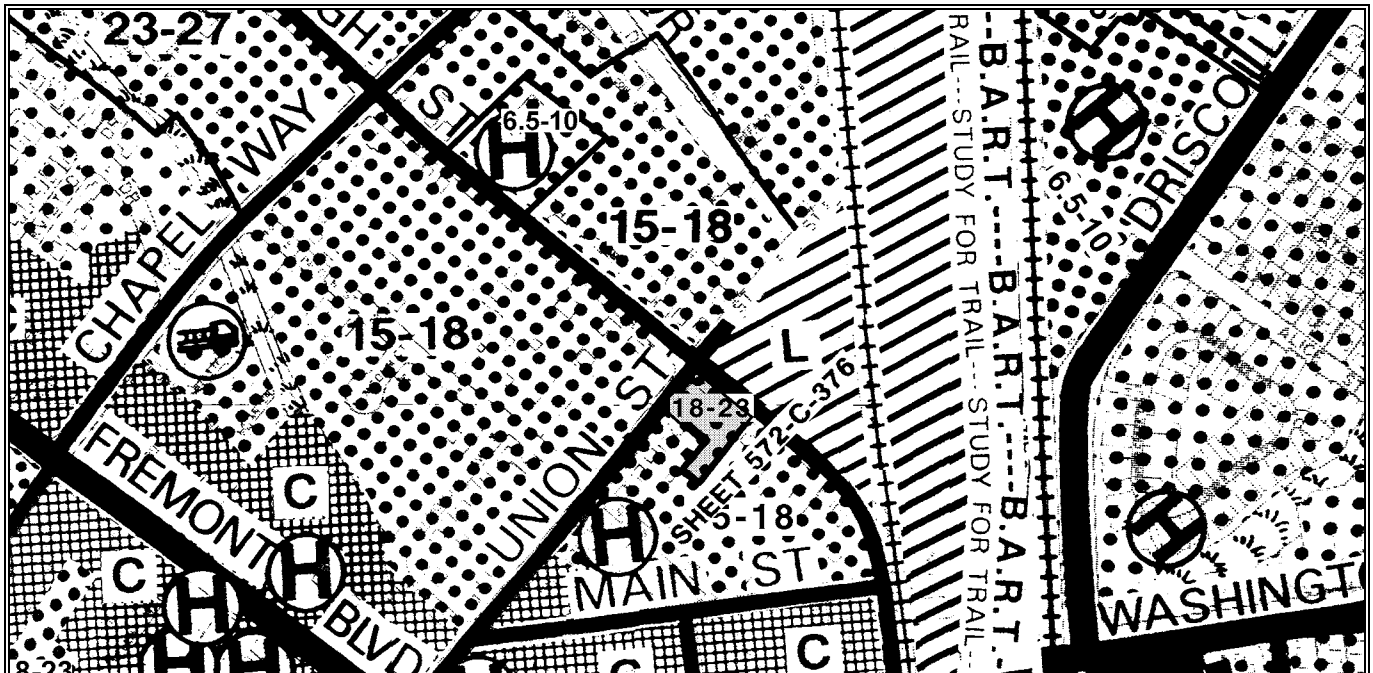


EXHIBIT "F"
UNION STREET TOWNHOMES
PLN2005-00027
Vesting Tentative Tract Map 8644 & Private Street

VESTING TENTATIVE TRACT MAP FINDINGS

The following findings are made based upon the information contained in the staff report to the Planning Commission dated May 26, 2005, as well as information presented at the public hearing, incorporated hereby:

1. The proposed map satisfies the requirements and conditions imposed by the Subdivision Map Act and the City of Fremont Subdivision Ordinance, because the procedural requirements of the Map Act are being followed and the proposed lots conform to the standards as stipulated in the Planned District (P-2005-27) zoning district.
2. The proposed subdivision, together with the provisions of its design and improvement, is consistent with the General Plan and any applicable specific plan, because the proposed development conforms to the requirements of the zoning district as well as the General Plan land use designations for the site.
3. The site is physically suitable for the type and proposed density of the development, because it is consistent with the General Plan and zoning designations for the site.
4. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, because of the design and location of the development.
5. The design of the subdivision and the type of improvements are not likely to cause serious public health problems, because the review process of the subdivision has taken those concerns into consideration and has found the proposal in conformance with the City of Fremont's policies.
6. The design of the subdivision and the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision. Acquisition of any new easements will be required prior to the acceptance of the Final Map for this project.

PRIVATE STREET FINDINGS

1. The most logical development of the land requires private street access because the physical character of the project is more amenable to the less intense right of way required of a private street.
2. The development of the land is well defined because the design of the subdivision and proposed improvements are in conformance with the City of Fremont's applicable codes and policies.

VESTING TENTATIVE MAP CONDITIONS OF APPROVAL

1. The approval of PLN2005-00027 shall conform to Exhibit "E" (Vesting Tentative Tract Map 8644 and Private Street), all the conditions of approval set forth herein, and all conditions of approval of Planned District P-2005-027.
2. Approval of this Vesting Tentative Map shall expire 24 months after approval according to the provisions of the State Subdivision Map Act and any amendments thereto and applicable provisions of the Fremont Municipal Code consistent with the State Subdivision Map Act.
3. The proposed private street name, Zainab Terrace, is subject to review, modification, and approval by the City prior to final map approval.

4. Prior to submission of the application for final map and subdivision improvement plans, the subdivider, developer, project civil engineer, and project surveyor shall attend a meeting with Engineering Division staff. The purpose of the meeting will be to review the City's application requirements for final map and subdivision improvement plans and to review the conditions of approval from the Planned District, Vesting Tentative Map and Private Street.
5. The Preliminary Grading, Drainage and Utility Plan, sheet C-1, is informational only and is not approved as part of the Vesting Tentative Map for Tract 8644. Final grades and the locations of utilities, including utility meters, are subject to modification during review of the subdivision improvement plans.
6. The drainage easement in the rear of Lots 7 through 10 shall be widened to a minimum width of 5 feet, subject to review of the City Engineer prior to final map approval.
7. The developer shall comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.
8. In accordance with the Alameda Countywide NPDES Municipal Stormwater Permit, Order R2-2003-0021, NPDES Permit No. CAS0029831, the property owners shall enter into a maintenance agreement for the long-term operation and maintenance of on-site stormwater treatment measures. The agreement shall run with the land and be recorded at the same time that the final map is recorded.
9. The streetlight plan and joint trench plan shall be submitted by the applicant with the first subdivision plan check for the street improvement plans and final map. The final streetlight plan and joint trench plan shall be completed and approved prior to final map approval.
10. The developer shall request P.G. & E. to commence with the design of the utility underground work for the proposed development after the Planning Commission's approval of Vesting Tentative Tract Map 8644.
11. Precise geometry and location of all driveways shall be subject to approval of the City Engineer.
12. In accordance with Section 66474.9(b) of the Subdivision Map Act, the subdivider shall defend, indemnify, and hold harmless the City of Fremont or its agents, officers, or employees from any claim, action, or proceeding against the City of Fremont or its agents, officers, or employees to attack, set aside, void, or annul, an approval of the City of Fremont, advisory agency, appeal board, or legislative body concerning a subdivision, which action is brought within the time period provided for in Section 66499.37 of the Government Code.
13. The City of Fremont shall promptly notify the applicant of any claim, action, or proceeding to attack, set aside, void, or annul, its approval and shall cooperate fully in the defense thereof.
14. All new utility service connections, including electrical and communications, shall be installed underground within appropriate public service or public utility easements.
15. The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The plans will also include storm water measures for operation and maintenance of the project.
16. The developer is responsible for ensuring that all contractors and subcontractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.
17. The developer, at time of initial sale, shall provide to the buyer information on good housekeeping of hazardous products, i.e. proper use and disposal, prohibited discharge practices, etc. Informational materials will be furnished by the City.

18. A home owners association or other mechanism acceptable to the City is to be established, formed, and is to covenant and be responsible for the maintenance of all commonly owned facilities, which are not maintained by the public utility agency. The developer is responsible for maintenance for all facilities during the subdivision warranty period.
19. The owner of private streets and storm drains shall prepare and implement a plan for street sweeping of paved private roads and cleaning of all storm drain inlets.
20. All on-site storm drains must be cleaned at least once a year immediately prior to the rainy season. Additional cleaning may be required by the City of Fremont.
21. The Property Owner shall enter into an Inclusionary Housing Ordinance Developer Agreement with the City to provide at least 15% of the for-sale development (a total of 1 unit of the 12 units as part of the Union Street Townhomes, identified as Unit #10 on Lot #10) for participation in a below market rate (BMR) sales program implemented by the Office of Housing and Redevelopment. The Agreement shall run with the land and shall be recorded.

The Agreement shall include the following provisions:

- BMR units must be affordable to families earning no greater than 110% or below of the then current county median as defined by the United States Department of Housing and Urban Development; exceptions allowing families to earn up to up to 120% made be made on a case-by-case basis;
- Units shall be available only to first time homebuyers as defined under the California Housing and Finance Agency Mortgage Program (Cal HFA) or successor program and to those who currently reside within the County of Alameda. To the extent permitted by law, preference shall be given to those who currently live or work within the City of Fremont;
- To insure long-term affordability, and to assist the greatest number of families over the longest feasible time, BMR units shall be subject to resale restrictions under individual agreements developed by the City of Fremont, which shall be binding for a minimum of 30 years, renewable upon resale.
- The BMR sales price shall be computed as follows:

For the two bedroom unit, the sales price shall be computed based upon the then current at the time of sale maximum moderate income (110% of median income) for a family of three times a multiplier of 3.5, and for three bedroom units, the sales price shall be computed based upon the then current at the time of sale maximum moderate income (110% of median income) for a family of four times a multiplier of 3.5. For January 2005, the sales prices would be:

2005 Current BMR sales price:

2 bedrooms (family of 3 at 110% of area median income): \$284,900

3 bedrooms: (family of 4 at 110% of area median income): \$316,400

- The City of Fremont Office of Housing and Redevelopment will conduct the Buyer Selection process and will provide eligible homebuyers to the Developer. The selection process will be described in the Inclusionary Housing Ordinance Developer Agreement.

22. The location of water meters within the landscape planters shall be subject to review and approval of the City's Landscape Architect. Meters shall be located to maximize planter area for landscape material.

PRIVATE STREET CONDITIONS

23. The private streets shall conform with staff amended Exhibit "E", attached hereto and made a part hereof and all conditions of approval of Vesting Tentative Map 8644.
24. Approval of this Private Street shall run concurrent with the approval and subsequent extensions of Vesting Tentative Tract Map 8644 (PLN2005-00027). Approval of this Private Street shall terminate upon the expiration of Vesting Tentative Tract Map 8644.
25. This Private Street (PLN2005-00027) is being conditionally approved based on the accuracy of the information shown on Exhibit "E" and submitted with the Private Street application. If any of the information is shown to be inaccurate subsequent to approval of the Private Street by the City, such inaccuracy may be cause for invalidating this approval.
26. The private street name shown on Exhibit "E" is subject to modification prior to final map approval. If needed, the developer shall work with staff to provide different street names, subject to staff review and approval.
27. A Public Service Easement (PSE) is to be established over the entire private street right-of-way. The PSE dedication statement on the final map is to recite that the PSE is available for, but not limited to, the installation, access and maintenance of sanitary and storm sewers, water, electrical and communication facilities.
28. Access considerations for the on-site circulation system require space to be reserved for the movement of fire-fighting and emergency vehicles for the protection of both private property and the public. Dedication of emergency vehicle access easements (E.V.A.E.) on the final map over the private street right-of-way will be required. The easement geometry shall be subject to the approval of the City Engineer.
29. Fire hydrants are to be located along the private street as determined by the Fremont Fire Department.
30. Deed restrictions are to be recorded concurrently with the final map to create a mandatory Home Owner's Association or any other mechanism acceptable to the City for those lots with private street frontage which is to covenant and be responsible for the following:
 - a. Maintenance of the facilities in the private street which are not maintained by a public utility agency, except all utility work resulting from backfill failure is to be the responsibility of the Home Owner's Association.
 - b. Payment of the water and private street lighting (maintenance and energy) bills.
 - c. Maintenance, repair, replacement and removal of blockages in all building sewers. Maintenance of the building sewers includes repair of any trench failures and/or trench surface material failures.
 - d. Maintenance and "knock-down" repair of fire hydrants and water facilities along the private street is to be done by the utility agency at the expense of the Home Owner's Association. The Home Owner's Association is to be responsible for repainting any fire hydrants along the private street.
31. Each buyer is to sign an acknowledgment that he/she has read the constitution and bylaws of the Home Owner's Association and the conditions, covenants and restrictions applying to the development.
32. Private street grading and drainage shall be done according to public street standards, subject to review and approval by the City Engineer prior to final map approval.
33. Pursuant to FMC Section 8-1522 and 8-3107, the subdivider is to improve prior to final map approval or agree to improve within one year of final map approval, the private street frontage of the map. No permanent improvement work is to commence until improvement plans and profiles have been approved by the City Engineer. Improvements are to be installed to permanent line and grade in accordance with the City's subdivision improvement standards and to the satisfaction of the City Engineer. The minimum improvements which the subdivider is normally required to

construct or agree to construct prior to acceptance and approval of the final map by the City are as set forth in the City Development Policy for Private Vehicle Access ways. Improvements to be constructed include:

- e. Curb and gutter
- f. Driveways
- g. Street paving
- h. Private Street monuments
- i. Electroliers (wired underground)
- j. Drainage facilities
- k. Signs
- l. Fire hydrants

- 34. The private street pavement shall be designed on the basis of a traffic index using predicted traffic generation and a twenty year pavement design life. In no case shall the traffic index be less than 5.5. Asphalt concrete surfacing to be treated with a seal coat of the type and amount required by the City Engineer. Pavement design sections shall be subject to approval of the City Engineer.
- 35. Safety lighting is to be provided on the private street. Lights shall utilize "vandal resistant" enclosures and shall have sufficient power and spacing to provide an average maintained foot-candle level of 0.12.
- 36. A signpost, to which is attached a sign having an area of at least fifteen inches by twenty-one inches, is to be installed at or near the private street entrance. The name of the private street is to be placed on this sign in clearly legible four-inch letters. The sign is to have painted, in at least one-inch letters, "Private Property. Not dedicated for public use."
- 37. Approval of Private Street (PLN2005-00027) shall become effective upon final map approval.

SUBDIVIDER PLEASE NOTE:

The fees, dedications, reservations and/or other exactions imposed on this project are those listed in the foregoing conditions of this tentative tract map approval. The subdivider is hereby notified that the 90-day period in which the subdivider may protest these fees, dedications, reservations and other exactions pursuant to Government Code Section 66020(a) begins on the date of approval of this tentative tract map. If the subdivider fails to file a protest within this 90-day period complying with all the requirements of Government Code Section 66020, the subdivider will be legally barred from later challenging such actions.